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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/030,367 | 01/02/2002 | Takako Fujii | 9643/0L340 | 8711 |

7278 7590 09/30/2003
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[REDACTED] EXAMINER

DONNELLY, JEROME W

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3764

DATE MAILED: 09/30/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | | |
|-----------------------|-------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10 030 367 | Raji |
| | Examiner Jerome W Donnelly | Art Unit 3764 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on *Amends dated 1-2-02, 5-6-03*
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims** *17 and 19-32*
- 4) Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) *17 and 32* is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

- Jerome W. Donnelly*
Primary Examiner
4) Interview Summary (PTO-413) Paper No(s). _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

Art Unit: 3764

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17 and 19-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimoto.

The claims are so broad as to read on Fujimoto's tights Fig 5, the tights further including a heavy stretchable material (1), which is capable of covering all of the claimed muscles of the device of claims 1-32.

The applicant is reminded that the structure of the body may not be used as a limitation, which patentably distinguishes the device from the prior art.

The device of Fujimoto is capable of engaging the claimed muscles of the device of claims 1-32. See fig 5 note elements (1).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 1) Note the overall device of Wilkinson.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number 308-2668.

Donnelly/DL

Jerome W. Donnelly
Primary Examiner

September 3, 2003